

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

IN RE: LOESTRIN 24 FE ANTITRUST
LITIGATION

MDL No. 2472

Master File No. 13-md-2472-WES-PAS

THIS DOCUMENT RELATES TO:
ALL ACTIONS

**NOTICE REGARDING THE PARTICIPATION OF THE CONSUMER END-PAYOR
PLAINTIFFS AT TRIAL**

Pursuant to the Court's request, the End-Payor Plaintiffs hereby provide the following notice regarding the participation of the consumer End-Payor Plaintiffs at trial.

During Phase 1 of the trial, End-Payors Plaintiffs expect to call as a witness a representative from the City of Providence but do not expect to call during our Phase 1 case-in-chief any other End-Payor class representative or either of the two individual consumers (Mary Alexander or Denise Loy). The two consumers' claims are identical to the certified Third-Party Payor Class claims to be tried in Phase 1, and a favorable result for the Third-Party Payor Class in the Phase 1 trial will apply equally to the individual consumers. These consumers' individual claims are subject to one-way collateral estoppel based on the results in Phase 1. *See, e.g., Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326 n. 5 (1979) (collateral estoppel, or issue preclusion, prevents relitigation in a second suit of issues actually litigated in, and necessary to the outcome of, a prior suit); *see also Keystone Shipping Co. v. New England Power Co.*, 109 F.3d 46, 51 (1st Cir. 1997) (explaining that "[t]he principle of collateral estoppel, or issue preclusion, . . . bars relitigation of any factual or legal issue that was actually decided in previous litigation between the parties, whether on the same or a different claim" (internal quotation marks and citations omitted)).

Additionally, any potential relevant testimony of these consumers, to the extent any is required, would be more appropriately heard in Phase 2.

Dated: December 20, 2019

Respectfully submitted,

/s/ Lori A. Fanning

Marvin A. Miller

Lori Fanning

MILLER LAW LLC

115 South LaSalle Street, Suite 2910

Chicago, IL 60603

Tel: (312) 332-3400

mmiller@millerlawllc.com

lfanning@millerlawllc.com

Sharon K. Robertson

Donna M. Evans

COHEN MILSTEIN SELLERS & TOLL PLLC

88 Pine Street, 14th Floor

New York, NY 10005

Tel: (212) 838-7797

Fax: (212) 838-7745

srobertson@cohenmilstein.com

devans@cohenmilstein.com

Robert A. Braun

COHEN MILSTEIN SELLERS & TOLL PLLC

1100 New York Avenue, Suite 500

Washington, DC 20002

Tel: (212) 408-4600

rbraun@cohenmilstein.com

Steve D. Shadowen

Matthew C. Weiner

HILLIARD & SHADOWEN LLP

1135 W. 6th Street, Suite 125

Austin, TX 78703

Tel: (855) 344-3298

steve@hilliardshadowenlaw.com

matt@hilliardshadowenlaw.com

Michael M. Buchman
Michelle Clerkin
MOTLEY RICE LLC
777 Third Avenue, 27th Floor
New York, NY 10017
Tel: (212) 577-0050
Fax: (212) 577-0054
mbuchman@motleyrice.com
mclerkin@motleyrice.com

Co-Lead Counsel for the End-Payor Class

Robert J. McConnell
MOTLEY RICE LLC
321 South Main Street, Second Floor
Providence, R.I. 02903
Tel: (401) 457-7700
bmccConnell@motleyrice.com

Liaison Counsel for the End-Payor Class

CERTIFICATE OF SERVICE

I, Lori A. Fanning, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's CM/ECF system. Those attorneys who are registered CM/ECF users may access these filings, and notice of these filings will be sent to those parties by operation of the CM/ECF system.

Dated: December 20, 2019

/s/ Lori A. Fanning
Lori A. Fanning